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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,654	02/03/2004	Peter W. Gavin	34814-10123	3525
2574	7590	06/12/2007		
JENNER & BLOCK, LLP ONE IBM PLAZA CHICAGO, IL 60611			EXAMINER WENDELL, MARK R	
			ART UNIT	PAPER NUMBER
			3609	
			MAIL DATE	DELIVERY MODE
			06/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/771,654	GAVIN, PETER W.	
	Examiner	Art Unit	
	Mark R. Wendell	3609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/7/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Page 7, paragraph 32, line 2, the word "to" should be replaced with "and."

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the anchoring system of claims 36 and 37 must be shown or the feature canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 42 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. Claim 42 depends from claim 19, which already claims the combination of a casting riser pan and concrete cover.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not understood by the examiner how an object "depends angularly" outward from another

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object. For examination purposes, the examiner will read the claim to say "extends angularly outward."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17, 19-25, 27-30, 32-37, 39-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Campbell et al. (US Patent Application Publication Number US 2002/0166291). Campbell illustrates in Figure 6 a casting riser pan (130) comprising:

- An annular wall having a top and bottom portion (see modified figure below);
- An annular wall defining the periphery of a cover;
- An annular wall including an orientation portion forming an orientation element.

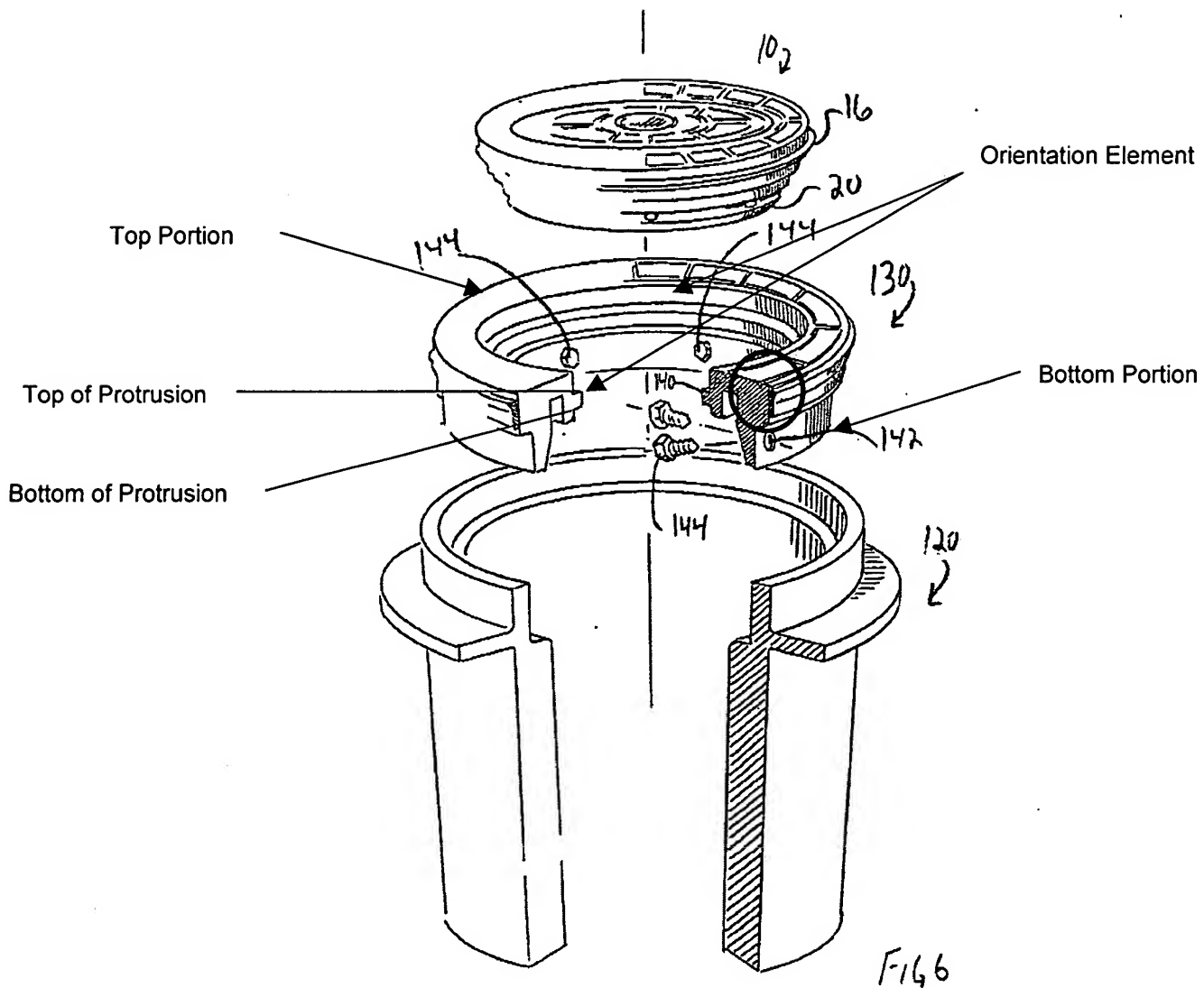


Figure 6 of Campbell et al.

Regarding claim 3, Campbell illustrates in Figure 6 the casting riser pan (130) tapering radially outward from bottom to top. The examiner notes that the circled portion in the figure above is tapered outward further than the labeled bottom portion, thus giving rise to the casting riser pan tapering radially outward from bottom to top.

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Regarding claims 4-9, Campbell illustrates in Figure 6 the casting riser pan wall having an upper and lower portion and a protruding transverse shoulder (140) extending inwardly between the two.

Regarding claims 6 and 7, the orientation element (labeled above) comprises a protrusion (140), having a top and bottom portion, extending radially inward, thus defining a recess (20) in the cover.

Regarding claims 10-16, Campbell illustrates in Figure 6 a casting riser pan comprising:

- A securing element extending radially inward from the bottom portion of the wall (see modified figure below);
- A weakened region connecting the securing element to the bottom portion;
- A securing element including attachment holes (142) with fasteners;
- An end portion to be received by a stackable riser (120).

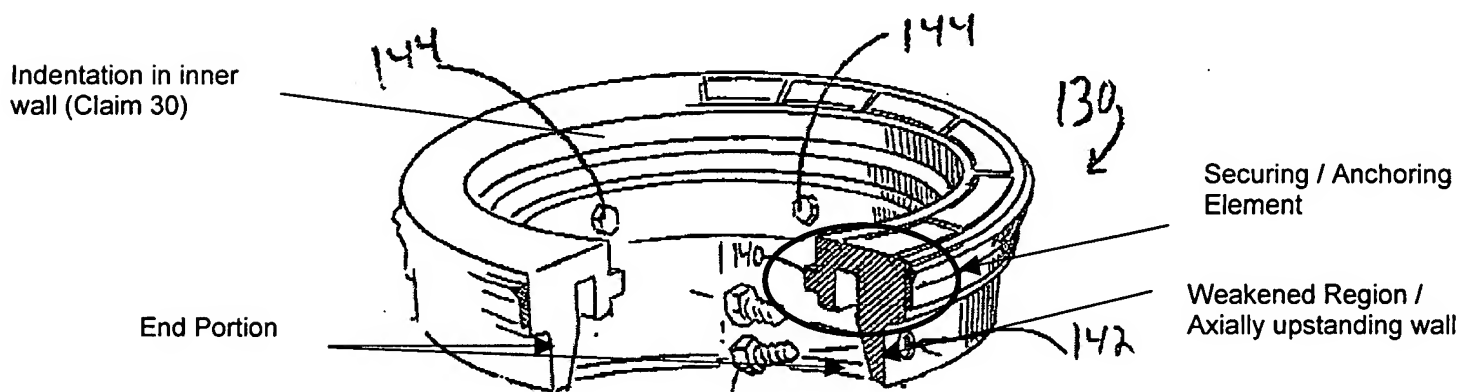


Figure 6 of Campbell

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Regarding claim 17, Campbell illustrates in Figure 6 a casting riser pan (130) in combination with a stackable riser (120).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-37, 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US Patent Application Publication Number US 2002/0166291). Campbell discloses a casting riser pan with a cover comprising:

- An inner wall having a top and bottom portion defining the periphery of the cover;
- An annular outer wall connected to the annular inner wall via a top portion, the outer wall depending angularly outward from the inner wall.
- An annular wall including an orientation portion forming an orientation element.

However, Campbell does not disclose the cap (10) being made from concrete. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cap of concrete, since it has been held to be within the general skill

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of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

Regarding claim 20, Campbell illustrates in Figure 6 a casting riser pan (130) with the outer wall extending angularly outward from the inner wall. The outer wall extends outwardly at an angle of 180 degrees, which meets the limitation of extending angularly outward.

Regarding claim 23, Campbell illustrates in Figure 6 a casting riser pan (130) with the inner wall tapering radially outward from bottom to top.

Regarding claims 24-26, 28-31, Campbell illustrates in Figure 6 the casting riser pan wall having an upper and lower portion and a protruding transverse shoulder (140) extending inwardly between the two. Campbell also discloses the top portion of the protrusion being narrower than the bottom, where the indentation of the inner wall defines a protrusion from the cover.

Regarding claim 30, see modified Figure 6 of Campbell above. The indentation in the inner wall is labeled, which defines one of the multiple protrusions in the cover (10).

Regarding claims 32-35, and 39, Campbell illustrates in Figure 6 a casting riser pan comprising:

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- A securing element extending radially inward from the bottom portion of the wall (see modified figure above);
- A weakened region connecting the securing element to the bottom portion;
- A securing element including attachment holes (142) with fasteners;
- An end portion to be received by a stackable riser (120).

Regarding claims 36 and 37, Campbell illustrates in Figure 6 an annular anchor element (see modified figure above) extending radially outward from the outer wall.

Regarding claim 40, Campbell illustrates in Figure 6 (see modified figure above), a casting riser pan (130) with the end portion including an axially extending upstanding wall.

Regarding claim 41, Campbell illustrates in Figure 6 a casting riser pan (130) in combination with a stackable riser (120).

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US Patent Application Publication Number US 2002/0166291) in view of Meyers (US Patent 5852901). Campbell discloses a casting riser pan with a cover (10) comprising:

- An inner wall having a top and bottom portion defining the periphery of the cover;

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- An annular outer wall connected to the annular inner wall via a top portion, the outer wall depending angularly outward from the inner wall.
- An annular wall including an orientation portion forming an orientation element.

However, Campbell does not disclose the cap (10) being made from concrete or a plurality of ribs connected to the inner and outer walls. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cap of concrete, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

Meyers illustrates in Figure 1 a plurality of ribs on the inside and outside of the casting riser pan (10). It would have been obvious to one of ordinary skill in the art, with the motivation of strengthening the walls (Meyers, column 5, lines 48-50) to modify the casting riser pan of Campbell with the plurality of ribs of Meyers.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johanneck (US 6088972) teaches concrete floor inserts. Lang et al. teaches a plastic fillable manhole cover with handles. Gavin (US 6688072), Hagen (US 6773202), Meyers (US 5711536), Gavin (US 6655093), and Stetson (US 6393771) all disclose stackable risers, casting riser pans, and their components.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson
Supervisory Patent Examiner
Art Unit 3609

MW
May 30, 2007